

Appendix F
Joint Permit Application
Withdrawal Guidance

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Joint Permit Application Withdrawal Guidelines

Additional information and/or filing fees may be required upon further review of your application. Should we not receive the requested information from you within 30 days of this correction request, we will consider your application as withdrawn, and we will close your file. Applications administered by the LWMD can be reopened within 180 days of this correction request, if all the information requested is provided. The application file will be permanently closed if all of the requested information is not provided within 180 days of this correction request. Fees are not refundable on files once a decision has been made or if an action has been taken, such as closing a file due to no or incomplete response to a correction request, posting a public notice, or conducting a site visit. A new application can be submitted after 180 days of the date of this correction request, but fees are not transferable. If you have any questions regarding this letter or your application, please contact the Permit Consolidation Unit at 517-373-9244 or by email at DEQ-LWM-PCU@michigan.gov. Send the requested information to: Permit Consolidation Unit, MDEQ, LWMD, P.O. Box 30204, 525 West Allegan Street, Lansing Michigan 48909-7704. Please include your file number, in your response. The status of your file can be tracked on-line at: www.deq.state.mi.us/ciwpis.



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On September 10, 2004, Part 13 of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA) became effective. It established timeframes for determining application completeness and for processing permit applications. During the “application period,” the Land and Water Management Division (LWMD) has up to 30 days to notify the applicant that an application is incomplete. Once an application is administratively complete, an application “processing period” begins. The following table summarizes the established application processing periods for the Parts of the NREPA administered by the LWMD:

Part	If a public hearing is not held	If a public hearing is held
Floodplain Regulatory Authority found in Part 31, Water Resources Protection	90 days	150 days
Part 301, Inland Lakes and Streams	60 days	120 days
Part 303, Wetlands Protection	90 days	150 days
Part 315, Dam Safety	60 days for all applications	
Part 323, Shorelands Protection and Management	60 days for all applications	
Part 325, Great Lakes Submerged Lands	90 days	150 days
Part 353, Sand Dunes Protection and Management	60 days	90 days

Most permit applications submitted to the LWMD fall under the jurisdiction of more than one part of the NREPA. When an application falls under the jurisdiction of parts with different processing periods, the shortest applicable processing period is used.

These time limitations can, at times, interfere with the ability of the LWMD's staff and an applicant to complete discussions on a mutually agreeable project for which a permit can be issued. These time limitations can also make it difficult for applicants who are working concurrently with a local unit of government. When either the local government or the LWMD require project modifications, the applicant frequently does not have enough time to modify the plans and submit them to the other agency, ensuring that both regulating agencies can approve the project.

A permit application denial, under the above circumstances, may not be in the best interests of the LWMD or the applicant. Therefore, an operating procedure was established to provide two options: 1) withdrawal of the application by the applicant, or 2) denial of the application. An applicant can withdraw a permit application at any time during the review process prior to the LWMD making a decision on the application. To withdraw an application, the applicant must submit a written request to the LWMD asking that the application processing stop. When it is determined that a project is unlikely to be permitted as proposed, staff will contact the applicant and/or the applicant's consultant prior to the processing deadline to explain the reasons why the project cannot be permitted and possible project alternatives or modifications that may be permissible. The applicant can choose to withdraw the application to consider project modifications. If the applicant does not withdraw the application, the LWMD will continue to process it and make a decision within the applicable timeframe.

An applicant who has withdrawn an application may request that the LWMD resume processing the withdrawn application by submitting a written request **within 180 days** from the date of the withdrawal to the

LWMD office that was processing the application. The LWMD will acknowledge the request in writing and will resume processing the modified application. The processing time will start over and a final decision on the application will be made within the appropriate timeframe. No additional application fee will be required for the LWMD to reactivate the application. An application may be withdrawn by the applicant a maximum of two times.

If the United States Environmental Protection Agency (USEPA) has filed objections to the application, the objections must be resolved and the USEPA must withdraw the objections within 90 days from the date of their objection letter. If the objections are not resolved and withdrawn by the USEPA within 90 days, the application cannot be re-opened. In this case, a new application must be submitted in order for the USEPA and the LWMD to consider a modified project.

A withdrawn application may be modified by the applicant prior to requesting that the LWMD resume processing of the application. A withdrawn application that has been modified must meet all of the following criteria:

- 1) The basic project and project purpose will remain the same as that provided in the original application.
- 2) The modified application is complete and contains all of the information necessary to make the decision on the permit application.
- 3) The resource impacts (i.e., wetlands, lakes, streams, floodplains, and sand dunes) proposed in the modified application do not exceed those proposed in the original application.
- 4) The resources proposed to be impacted by the modified application are the same as those proposed in the original application.
- 5) The locations of the impacts in the modified application are in the immediate vicinity of those in the original application.

A permit application that does not meet the criteria for permit issuance established in the appropriate statute and the administrative rules, and is not withdrawn by the applicant, will be denied. An applicant may appeal a LWMD permit denial by petitioning the Office of Administrative Hearings (OAH) for a contested case hearing. A petition for a contested case hearing must be submitted no later than 60 days from the date of the application denial. During the contested case hearing process, the OAH generally provides the parties to the case an opportunity to meet informally and attempt to resolve the matter before a formal hearing is held. If the parties reach a mutually agreeable resolution to the contested case, the resolution must be filed with the OAH for approval. If a resolution is not reached through informal discussions, a contested case hearing will be held. The OAH holds the hearing and submits a Proposal for Decision to the Director of the Department of Environmental Quality (DEQ). The Director issues a Final Determination and Order, which is the final decision of the DEQ regarding the application.

An applicant who desires further review of a project which was denied but not appealed must submit a new application with the appropriate application fee. The application will be processed and reviewed as a new application.

If you have any questions regarding this procedure, please contact the LWMD district/field office processing your application. A list of the phone numbers and addresses for the LWMD district/field offices is available on our web site at www.michigan.gov/jointpermit.